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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/342,917	06/30/1999	HIROAKI SUGIURA	862.2900	7289

5514 7590 03/19/2007  
FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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WANG, JIN CHENG

ART UNIT	PAPER NUMBER
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2628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/342,917

Applicant(s)

SUGIURA, HIROAKI

Examiner

Jin-Cheng Wang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007 and 3/5/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4,5 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-5 and 24-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The submission filed on 11/8/2006, 1/8/2007 and 3/5/2007 has been entered. Claims 24 and 26-27 have been amended. Claims 1-3, 6-23 and 28 have been canceled. Claims 4-5 and 24-28 are pending in the present application.

### ***Response to Arguments***

Applicant's arguments filed 11/8/2006 and 3/5/2007 have been fully considered but are moot in view of the new ground(s) of rejection set forth in the present Office Action.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The claim 27 recites "a computer-readable storage medium" wherein "storage medium" is recited, however it is not the storage medium in line 20 of Page 18(19?) set forth in the applicant's specification (storing the processing result). It should refer to ROM 101 that stores a computer program.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 26 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim 26 recites “a display, arranged to display a color converted image represented by the output data”. However, nowhere in the specification discloses the claim limitation. See in particular the apparatus of Fig. 8. A display is not disclosed. Moreover, the processing result is not displayed, it is stored in a memory or a storage medium instead of being displayed. For example, from lines 9-15 in Page 18 (19?) of applicant’s specification, it is stated, “outputs the processing result via the I/O 104 or NIC 105 or stores it in a storage medium such as a hard disk (HD) 107”. However, outputting the processing result in a memory or a storage medium does not constitute a useful and tangible result.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4-5 and 24-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**Claims 26, 24, 4-5 and 25:**

Claim 26 recites a data conversion apparatus comprising a processor arranged to perform interpolation processing. The apparatus having a processor is nothing more than a computer program as evidenced in the canceled claim 28. Computer program per se is neither computer components nor statutory process. Thus, claim 26 is non-statutory for this reason.

Additionally, since claim 26 includes a 101 judicial exception, claim 26 must be for a practical application of the judicial exception. As is, claim 26 failed to recite either a physical transformation or produces a useful and tangible result. For example, from lines 9-15 in Page 18 (19?) of applicant's specification, it is stated, "outputs the processing result via the I/O 104 or NIC 105 or stores it in a storage medium such as a hard disk (HD) 107". However, outputting the processing result in a memory or a storage medium does not constitute a useful and tangible result. Thus, claim 26 is also non-statutory for this reason.

Claims 24, 4-5 and 25 are parallel method claims and are rejected for the same reasons discussed above.

**Claim 27:**

Since claim 27 includes a 101 judicial exception, claim 27 must be for a practical application of the judicial exception. As is, claim 27 failed to recite either a physical transformation or produces a useful and tangible result. For example, from lines 9-15 in Page 18 (19?) of applicant's specification, it is stated, "outputs the processing result via the I/O 104 or

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NIC 105 or stores it in a storage medium such as a hard disk (HD) 107". However, outputting the processing result in a memory or a storage medium does not constitute a useful and tangible result. Thus, claim 27 is also non-statutory for this reason.

### ***Allowable Subject Matter***

Claims 24-28 and 4-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101 set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 4-5 and 24-28:

The prior art of record fails to teach or suggest calculating an output data value for the input data value by tetrahedral interpolation using the output values for the four grid points and the weight values, based on determining result by the set of specific equations set forth in the claim 24.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jin-Cheng Wang whose telephone number is (571) 272-7665.

The examiner can normally be reached on 8:00 - 6:30 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jcw